In the High Court of Judicature for Rajasthan
At
Jaipur Bench, Jaipur

O R D E R

In

S.B. Criminal Revision Petition No.447/2007
Ramswaroop Vs. The State of Rajasthan

Date Of Order :: 30.11.2007

P R E S E N T
Hon'ble Mr. Justice Jitendra Ray Goyal

Mr. Dinesh Kumar Garg, for accused petitioner.
Mr. S.N. Gupta, Public Prosecutor for State.

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By the Court :-

This revision petition under section 397 read with 401 of the Code of Criminal Procedure has been filed by accused petitioner Ramswaroop against the order dated 15/2/2007 passed by learned Special Judge, Decoity Affected Area, Dholpur in Sessions Case No.77/2006 whereby charges for the offences under sections 395, 396, 397, 302 & 460 IPC were framed against the accused petitioner.

2. Heard learned counsel for accused petitioner as well as Public Prosecutor for the State

and perused the charge-sheet papers placed during the course of arguments.

3. It was inter alia contended that there is no iota of evidence against the accused petitioner and police filed the charge-sheet only on the basis of the manufactured statement of co-accused Rajkumar which alone cannot be made the basis of conviction of the accused petitioner. Reliance was placed on **Suresh Budharmal Kalani @ Pappu Kalani Vs. State of Maharashtra**, reported in **JT 1998(6) SC 371**. It was then contended that trial court at the time of framing of the charge has not taken into consideration any material available on the record nor indicated in the impugned order as to what is the material against the accused petitioner for framing the charge.

4. Learned Public Prosecutor supported the impugned order and contended that keeping in view the evidence collected by the investigating agency the trial court has rightly framed the charges.

5. I have considered the rival submissions

made at the bar. It is true that at the time of framing of the charge, it is not required for the trial court to minutely evaluate the material and evidence collected by the investigating agency but simultaneously it is also the duty of the court to take into consideration the material for arriving at the conclusion that there is grave suspicion and prima facie case is made out against the accused. The trial court while framing the charges, passed non-speaking order which reads as under :

> " विशेष लोक अभियोजक उप0। अभियुक्तगण राज कुमार व राम स्वरूप वर जमानत मय वकील उप. बहस चार्ज सुनी गयी। प्रथम दृष्टया धारा 395,396,397,302 एवं 460 भा.द.स. के अपराध का आरोप विरचित किये जाने का आधार प्रकट होता है। अत: उक्त आरोप विरचित कर अभियुक्तगण को शुमार व अपठित तलब हो, अभियुक्तगण ने अपराध अस्वीकार कर अन्वीक्षा चाही। गवाह 11,12,13 दि. 17.5.07 के लिए तथा साक्षीगण सं. 15 व 19 के दि. 18.5.07 के लिए सम्मन से तलब किये जावे। पत्रावली वास्ते साक्ष्य अभियोजन दि. 16.5.07 को पेश हो।"

6. From the impugned order, it does not appear that what material and evidence inspired the court to frame the charges against the accused petitioner. Therefore, this revision petition deserves to be allowed.

7. Consequently, this revision petition is allowed. The impugned order of framing the charges qua accused petitioner Ramswaroop is quashed and set aside and the matter is remitted back to the trial court with a direction to pass a fresh order in regard to framing of the charges against him in accordance to law.

(J.R. Goyal),J.

VS Shekhawat/-
Jr.P.A.